

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



KRISTOPHER B. HEIM,

Plaintiff,

v.

19-cv-1160 (JLS) (MJR)

THOMAS J. DOUGHERTY, Livingston
County Sheriff, COUNTY OF
LIVINGSTON, BRANDAN J.
FLICKNER, JAMES MERRICK,

Defendants.

DECISION AND ORDER

Plaintiff Kristopher B. Heim commenced this action on August 29, 2019, alleging claims for false arrest and imprisonment under 42 U.S.C. § 1983 and negligent infliction of emotional distress under New York law, based on his December 15, 2016 arrest in Geneseo, New York for driving while under the influence of drugs. *See* Dkt. 1. Defendants answered the complaint on November 5, 2019. Dkt. 5.

After Defendants answered the complaint, the Court¹ referred this case to United States Magistrate Judge Michael J. Roemer for all proceedings under 28 U.S.C. §§ 636(b)(1)(A), (B), and (C). Dkt. 6. Defendants asked the Court to stay

¹ Hon. Lawrence J. Vilardo, who was previously assigned to this case, issued the dispositive referral order. Dkt. 6. On February 18, 2020, this case was reassigned to the undersigned. Dkt. 9.

discovery-related deadlines and hold the preliminary pretrial conference in abeyance until they moved against the complaint under Federal Rule of Civil Procedure 12(c). *See* Dkt. 8. The Court granted that request, and Defendants filed their Rule 12(c) motion on February 20, 2020. Dkts. 10, 11. On July 13, 2020, Heim opposed Defendants' Rule 12(c) motion and cross-moved to amend the complaint. Dkts. 19, 20, 21. Defendants responded on July 24, 2020. Dkt. 22.

Judge Roemer heard oral argument on both motions on August 4, 2020. Dkt. 23. And on August 31, 2020, Judge Roemer issued a Report and Recommendations ("R&R"), recommending that this Court grant Defendants' Rule 12(c) motion and deny Heim's cross-motion to amend. Dkt. 24. Neither party objected to the R&R, and the time to do so has expired. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendations of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so here, this Court nevertheless reviewed the R&R. Based on that review and absent any objections, the Court accepts and

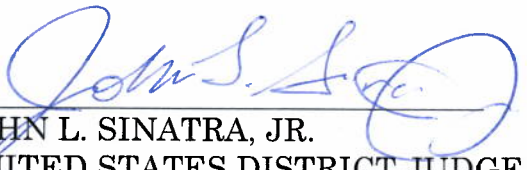
adopts Judge Roemer's recommendations to grant Defendants' Rule 12(c) motion and to deny Heim's cross-motion to amend.

For the reasons stated above and in the R&R, the Court GRANTS Defendants' Rule 12(c) motion (Dkt. 11) and DENIES Heim's cross-motion to amend the complaint (Dkt. 19). Heim's complaint (Dkt. 1) is DISMISSED, with prejudice.

The Clerk of Court shall close this case.

SO ORDERED.

Dated: September 23, 2020
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE